



Form 1 (Rule 3-1(1))

S 2 43 802

No.
Vancouver Registry

In the Supreme Court of British Columbia

Between

Aissa Aggoune, Joao Luiz Goncalves and Katia Bolanos

Plaintiffs

and

331750 BC Ltd and Larco Investments Ltd

Defendants

NOTICE OF CIVIL CLAIM

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

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This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

(a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

(b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or

(d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFFS

Part 1: STATEMENT OF FACTS

1. The Defendants own a residential apartment building at 1225 Cardero Street, Vancouver BC, called Regency Park Residences ("Regency Park"). The Defendant 331750 BC Ltd is a corporation with a registered office of 330 - 522 - 7th Street New Westminster, V3M 5T5. The Defendant Larco Investments Ltd. is a privately held real estate company (the "Defendants").
2. The plaintiffs, Aissa Aggoune, Joao Goncalves and Katia Bolanos are tenants of Regency Park (the "Plaintiffs").

3. Mr. Aggoune has been a tenant of Regency Park since May 2006. Mr. Goncalves has been a tenant of Regency Park since 2015. Ms. Bolanos has been a tenant of Regency Park since 2017.
4. The Plaintiffs allege that the Defendants negligently caused harm to them and to prospective class members by failing to provide and maintain adequate ventilation and clean air in Regency Park.
5. The Plaintiffs seek to bring this claim on their own behalf and on behalf of a class of persons similarly affected by this negligence.
6. Regency Park was built in the 1960s. It has an HVAC ventilation system that, when functioning, should allow clean air in Regency Park apartments and hallways to circulate. Proper indoor ventilation is necessary for human health.
7. Since at least 2015, the ventilation system in Regency Park has not worked properly. This was known to the Defendants at least as early as 2015. In 2015, Mr. Aggoune complained to the building manager that there was no ventilation in his unit. The building manager visited the unit and confirmed there was no circulation. The building manager advised the Defendants. The Defendants did not take any steps to repair the ventilation.
8. In approximately 2016 or 2017, Mr. Aggoune and other tenants complained again to the Defendants that the ventilation system was not functioning. The problem was particularly acute at that time because tenants had to keep their windows closed because of construction next door, which was noisy and dusty. With the windows closed, tenants experienced stale, smelly air. They also experienced mold growing on their belongings, carpets, and furniture.
9. The Defendants refused to repair the ventilation system.

10. In September 2017, Mr. Aggoune engaged a contractor to try to repair his ventilation at his own expense. The contractor was not able to repair the ventilation in Mr. Aggoune's unit as the central exhaust fan, part of the building's ventilation system, was broken. The Defendants again did nothing to fix it.
11. Mr. Aggoune and other tenants next complained about the lack of ventilation to the City of Vancouver (the "City"). The City conducted inspections in September 2017 and January 2018 and found serious deficiencies with the entire ventilation system. The City ordered the Defendants to have a qualified HVAC technician inspect and repair the ventilation system and report to the City.
12. In a subsequent investigation in March 2018, the City found that the system was still not working and requested that the Defendants provide proof from a professional mechanical and ventilation company that it was functioning within 30 days.
13. The Defendants did not fix the ventilation, and Mr. Aggoune complained to the City again. City officials conducted another inspection in May 2018, again concluding that the ventilation system throughout the entire building was deficient. The City instructed the Defendants to hire an expert consultant or mechanical engineer to assess the entire building, make recommendations and facilitate repairs.
14. To the Plaintiffs knowledge, the Defendants did not comply with the City's request. They did not fix the ventilation.
15. In June 2018, the City ordered the Defendants to retain a professional mechanical engineer to review and assess the building's ventilation system and provide report detailing necessary remediation measures.
16. In late 2018, the Defendants finally brought in a contractor to address the ventilation. To the Plaintiffs' knowledge, this contractor did not provide the report the City had required.

One of the steps the contractor took was to tape ducts to prevent backdraft. The other work did not fix the problems of ventilation in their units.

17. The Plaintiffs and other tenants continued to experience no or poor ventilation in their units including lack of airflow, dampness, mold, smell, and secondhand smoke. The tenants continued to complain to the Defendants. The Defendants did not address these complaints.
18. The Plaintiffs contacted the City again in 2024. On March 6, 2024, the City conducted an inspection and found serious, systemic deficiencies. The City again directed the Defendants to obtain a professional mechanical HVAC Engineer Report for the entire building.
19. Following this inspection, the Defendant finally arranged an inspection. However, to the Plaintiffs' knowledge, this inspection did not result in a report nor have the Defendant's taken any steps to fix the ventilation system.
20. Nine years after first raising the problem with the Defendants, the Plaintiffs and prospective class members still do not have ventilation or clean air in their units.
21. Because of the lack of air flow in the building, the Plaintiffs and other tenants have to choose between open windows or uncirculated indoor air. It is not practical nor healthy for them to keep their windows open through periods of construction noise and dust, wildfire smoke, street noise, extreme heat, and cold weather.
22. The Plaintiffs have had mold develop in their apartments and on their belongings due to the high moisture content in the air caused by the lack of ventilation.
23. The Plaintiffs and other tenants also experienced unpleasant smells in their units, including residual smells from their own cooking and bathroom use, as well as smells

drifting into their units from their neighbours' kitchens and bathrooms and second-hand smoke.

24. The Plaintiffs and other tenants have developed medical conditions and experienced physical and psychological symptoms as a result of the inadequate ventilation and poor air quality. In some instances, tenants have missed work and lost income as a result.
25. The lack of proper ventilation has been extremely distressing for the plaintiffs and other tenants. Being made ill by the air inside their own homes is stressful and upsetting. During periods of poor outdoor air quality, they feel they have no safe option to breathe healthy air. Living in damp, moldy homes makes them feel physically and psychologically unsafe. However, due to the very difficult rental market in Vancouver, they are not able to find other rental housing they can afford and they feel stuck in this unsafe, unhealthy situation.

PART 2: RELIEF REQUESTED

26. The Plaintiffs seek:

- a) a declaration that the Defendants negligently failed to maintain a functioning ventilation system;
- b) a declaration that the Defendants' negligence caused the plaintiffs harm;
- c) compensatory damages for:
 - i. harm to mental and physical health; and
 - ii. mental suffering.
- d) pre and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996 c 79;

e) costs; and

f) such further and other remedy as this Court may deem just.

PART 3: LEGAL BASIS

Duty of Care

27. The Defendants owe a duty of care to the plaintiffs and prospective class members.

Landlords owe a duty of care to tenants.

28. The duty owed includes the duty to provide and maintain the premises in a state of repair that is suitable for occupation and that complies with the law, including health, safety and housing standards and relevant building codes, and the duty to ensure that those using the space will be reasonably safe.

29. The Defendants are occupiers under the *Occupiers Liability Act*, RSBC 1996, c 337 and owe the Plaintiffs the duty of care defined under that *Act*.

30. The Defendants are owners under the Vancouver Standards of Maintenance By-law and are bound to maintain Regency Park to the standards required by that By-law.

City of Vancouver, by-law No 5462, *Standards of Maintenance* (2022)

31. The Defendants are landlords under the *Residential Tenancy Act*, RSBC 1996, c 406, which also informs the duty the Defendants owe the Plaintiffs.

32. In Vancouver, where Regency Park is located, the Vancouver Building By-law establishes the standard for all buildings. Section 20.1 of the By-Law requires that “natural light and ventilation shall be provided to the satisfaction of the City Building Inspector, having regard to the standards set out in the Vancouver Building By-law and basic health principles as determined after consultation with the Medical Health Officer.”

Standard of Care

33. The Defendants have breached the standard of care. They have failed to provide or maintain ventilation as required by law or required to protect the health and safety of the Plaintiffs or other prospective class members. The Defendants have failed to provide or maintain the building in a manner that is suitable for occupation or complies with law.

Harm Was Foreseeable

34. It was foreseeable that failing to ensure that Regency Park had proper ventilation and clean air would cause tenants living in Regency Park harm. The Plaintiffs repeatedly advised the Defendants of the harm the ventilation was causing. Further, it is generally understood that poor ventilation causes poor air quality, and that poor air quality can have health consequences.

35. It is also foreseeable that poor ventilation would impact the Plaintiffs' mental health by exposing them to unhealthy and unpleasant living conditions.

Harm Caused

36. The Defendants' negligence caused the plaintiffs harm.

The plaintiff's address for service: **ALLEVATO QUAIL & ROY**

1943 East Hastings Street

Vancouver, BC V5L 1T5

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(604) 424-8632

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ksegal@aqrlaw.ca

Place of trial:

Vancouver, British Columbia

The address of the registry is:

800 Smithe Street, Vancouver BC, V6Z 2E1

Dated: June 6, 2024



Signature of

☒ lawyers for plaintiff

Karen Segal, Susanna Allevato Quail

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

A claim for damages for negligence.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

☐ a motor vehicle accident

☐ medical malpractice

☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☒ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

Part 4:

Class Proceedings Act, RSBC 1996, c 50.